

CAROL ANN MOSES #164193
Attorney at Law
510 East Coral Pointe
Fresno, CA 93730
(559) 240-5456

Email: carol@yosemitelawyer.com

Attorney for Defendant
Ethan Andrew Evans Tindukasiri

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ETHAN ANDREW EVANS TINDUKASIRI,

Defendant.

CASE NO. 1:24-CR-00025-JLT-SKO
1:24-CR-00024-JLT-SKO

RULE 43 WAIVER OF DEFENDANT'S
PRESENCE REQUEST; FINDINGS AND ORDER

DATE: February 27, 2024
TIME: 1:00 p.m.
COURT: Hon. Barbara A. McAuliffe

This case was set for a preliminary hearing on December 1, 2023. The parties agreed and stipulated to continue the preliminary hearing until January 26, 2024 at 2:00 p.m. before the duty magistrate. Defense counsel had continued to be engaged in discussions and further investigation, and needed additional time to conclude that process. Additionally, the parties had engaged in discussions and investigation of issues related to a possible pre-indictment resolution, exploring issues related to the defendant's mental health, as well as consultation with or seeking consultation with experts. There are complex factual and legal issues the parties were exploring, and believed that additional time to conclude that process would be productive in moving the case forward.

The government proposed a Deferred Prosecution Agreement with conditions. Of concern was whether the victims in the case had been adequately apprised of the proposed resolution and whether the victims had any concerns about the proposed solution. The government provided a Supplemental Brief about their efforts to contact the victims and the victim's comments on the proposed Deferred

1 Prosecution Agreement. This document and the Deferred Prosecution Agreement are before Judge
2 Thurston.

3 At the last status conference, it was agreed that if the case had not been resolved, a new status
4 conference would be held on February 27, 2024. The Court advised that it would accept a Rule 43
5 Waiver for Defendant's presence should it be filed in advance.

6 An Information has been filed, which was a procedural matter to place this case in front of the
7 United States District Court Judge. Mr. Tindukasiri needs to be arraigned on the Information. It seems
8 appropriate that he be arraigned at the scheduled Status Conference on February 27, 2024.

9 **Rule 43 Waiver of Defendant's Presence**

10 Pursuant to Rule 43 of the Federal Rules of Criminal Procedure, the defendant, Ethan Andrew
11 Evans Tindukasiri, hereby waives the right to be present in person in open court at the Status Conference
12 on February 27, 2024 at 1:00 pm. If the Court wishes him to be present, he requests that he be allowed
13 an appearance by Zoom.

14 Mr. Tindukasiri lives with his parents in Southern California. The conditions of his Pre-Trial
15 Release require him to be with one of his parents at all times. It effects more than Mr. Tindukasiri to
16 drive to Fresno and return within one day, which is another requirement set by Pretrial: Mr. Tindukasiri
17 cannot be out of the District overnight unless overnight travel away from his District is pre-authorized.
18 Both Mr. Tindukasiri's parents work. Even though Mr. Tindukasiri's mother works from home, a missed
19 day's work is hard to make up. A Zoom appearance would satisfy the requirements of Rule 43.

20 The government does not object to a Rule 43 waiver or an appearance by Zoom.

21 Defendant hereby requests the Court to proceed during every absence of him which the Court
22 may permit pursuant to this waiver; agrees that his interests will be deemed represented at all times by
23 the presence of his attorney, the same as if the defendant were personally present; and further agrees to
24 be present in court ready for trial any day and hour the Court may fix in his absence. Mr. Tindukasiri
25 requests a Zoom appearance should the Court not waive his appearance completely.

26 ///

27 ///

28 ///

Defendant further acknowledges that he has been informed of his rights under Title 18 U.S.C. §§ 3161-3174 (Speedy Trial Act), and authorizes his attorney to set times and delays under that Act without Defendant being present.

/s/ ETHAN ANDREW EVANS
TINDUKASIRI

ETHAN ANDREW EVANS
TINDUKASIRI, Defendant

Dated: February 25, 2024

/s/ CAROL ANN MOSES

CAROL ANN MOSES
Counsel for Defendant
ETHAN ANDREW EVANS
TINDUKASIRI

FINDINGS AND ORDER

IT IS SO FOUND AND ORDERED that defendant Ethan Andrew Evans Tindukasiri need not be personally present at the Status Conference **February 27, 2024, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe.**

IT IS SO ORDERED.

Dated: **February 26, 2024**

/s/ *Barbara A. McAuliffe*
UNITED STATES MAGISTRATE JUDGE